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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,732	11/27/2006	Jose Ramon Izquierdo Nunez	HERRAS-72910	1201

24201 7590 10/10/2007  
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EXAMINER
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KENNEDY, JOSHUA T

ART UNIT	PAPER NUMBER
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3679


MAIL DATE	DELIVERY MODE
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10/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/563,732	Applicant(s) IZQUIERDO NUNEZ ET AL.	
	Examiner Joshua T. Kennedy	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 4 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20060106</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Specification*

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Claims 1-3 have been cancelled.

Claims 4 and 5 have been examined.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abels et al (WO 02/101250--Examiner uses US Patent 6,935,803 as an English equivalent of this publication).

As to Claim 4. Abels et al disclose a ball joint with thermal protection comprising:

a swivel housing (1) on which one of the suspension components or equivalent is attached having in its interior a housing (2) accommodating a bush (Fig 2) which rests and turns in sliding contact on a ball head (4) of a knuckle stem (5) provided with a dust boot (6) linked by way of its base to the swivel housing (1) and by its neck (14) to an upper section (Fig 2) of the knuckle stem (5), and

a thermal protector (7) integrated in the ball joint protecting the dust boot (6) from high temperatures generated in the surrounding area, characterized in that it incorporates a connecting ring (8) which has a base (8c) and a side face from which the project a series of tabs (8a, and the annular tab between beads 8b and 8c), which is previously linked to the neck of the dust boot (6; Fig 5).

However, Abels et al do not disclose the thermal protector presenting a horizontal upper face with a series of flexible radial plates that define interiorly a circular

opening which is fixed to the connecting ring by pressure of the plates on the tabs until they pass over them, with the result that said plates are engaged between the tabs and the base of the connecting ring.

Amrath teaches a ring member (7) presenting a horizontal upper face with a series of flexible radial plates (12) that define interiorly a circular opening (Fig 3) which is fixed by pressure of the plates (12) to fasten two members together in a non-slippable fashion without having to worry about varying tolerances (Col 1, Lines 21-25). It would have been obvious to one of ordinary skill in the art to modify the horizontal upper face of Abels et al to have flexible radial plates as taught by Amrath to fasten the thermal protector to the bellows in a non-slippable fashion without having to worry about varying tolerances.

Examiner notes that the specific method of forming is not germane to the issue of patentability of the device itself. Therefore, the limitation "previously linked to the neck of the dust boot by super injection or pressure and/or gluing" has been given only limited patentable weight and does not serve to structurally distinguish the claims. See MPEP § 2113.

As to Claim 5. Abels et al disclose the thermal protector (7) taking the form of a hood which extends initially in the horizontal upper face and is prolonged inferiorly by way of sloping side edges which terminate in vertical walls defining a spacious cutaway which leaves the dust boot partly exposed in the sector opposite the sector of the ball joint facing a heat source, said vertical walls being separated from the dust boot defining an

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air chamber between both which produces the thermal insulation of the dust boot (Figs 1c, 2, and 7c).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 5100254, 3842621, 6857811, 6834863, 5145191, 3381987, 6860519, 5074697, 3924877, 2401921, 4322175, 2739615 and US Patent Application Publications 2005/0036827, 2005/0152738, and 2006/0222452 all cited to show similar ball joint assemblies have dust boots and covers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua T. Kennedy whose telephone number is (571) 272-8297. The examiner can normally be reached on M-F: 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JTK

9/27/2007



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